by the owner that the policy of the law forbids it. Why does that not apply to the seizure of money in the hands? That is undeniably as invitatory of a personal encounter as the seizure of a breast pin worn on a scarf. The opinion in *State v. Dilliard*, holding that a horse being ridden by its owner could be levied upon, assigns as a reason that it is the duty of the person to surrender his property to legal process as much in the case of where he is using it as where it is merely in his sight or presence. No distinction can be drawn on the duty theory. Is it not as much the duty of the party to surrender a valuable breast pin worn by him as it is to surrender his horse which perchance is to him a means of livelihood? Is it not as much the duty of a person to surrender money in his pocket as it is money in his hand? Yet it can be indisputably asserted that no court would sustain a levy on the former. It is on his person in one case as much as in the other, and in both the incentive to personal conflict concerning which the law is so solicitous, is present in a high degree. The propriety of the rule laid down in the California and Missouri cases can well be doubted.

CONFLICT OF LAWS. MARRIAGE CONTRACT.

The Supreme Court of the United States rendered a decision April 15th, in *Travers v. Reinhardt*, which is interesting as a modern construction of common law marriage. The case was tried on an appeal from the Court of Appeals of the District of Columbia, 25 App. D. C. 567. The litigation arose in construing a will, and the validity of the marriage of James Travers became material in determining whether his wife would take under a provision of the will. In the opinion, the following facts were in substance conceded to be established. In 1865 a marriage between James Travers and Sophia V. Grayson was performed in Alexandria, Va., by a friend of Travers who in fact was not a person authorized by statute to perform such a ceremony. The woman believed it was a real marriage. After this ceremony the woman assumed the name of Mrs. Travers. They thereafter lived in Maryland till 1883 as husband and wife. A few months prior to Traver's death they had resided in New Jersey. During all the eighteen years of their cohabitation they had continued the relation of husband and wife in every way, and were so considered and respected in the communities in which they lived. Abundant evidence such as deeds, an unattested will and the last will of Travers showed that they considered themselves as husband and wife. The situation was briefly this: Following the Virginia Supreme Court of Appeals construction of the Virginia statute, the marriage in Virginia was void. The statute, requiring every marriage to be under license and solemnized in manner prescribed, was considered mandatory and not directory and it thus abrogated the common law. Cohabitation for over fifteen years in Maryland did not establish a legal relation of husband and wife, for the Maryland Court of Appeals had held that in that state there can-

not be a valid marriage without a religious ceremony. The short residence in New Jersey prior to Traver's death was the means of giving their cohabitation recognition as a legal relation of marriage. New Jersey recognizes the comman law principle of marriage, and from the continued cohabitation of this couple an agreement *per verba de praesenti* was implied, and the court held the marriage valid in law, so the wife was entitled to take under the provisions of the will in controversy.

The general rule that marriage is valid or void by the law of the place where it is celebrated is valid or void everywhere, is very familiar. It has been held in New Jersey that when a man and a woman intend to marry and live together as husband and wife but their intent is frustrated by the existence of some unknown impediment, when the impediment is removed and it is shown that the same intent continues, their relations are lawful. *Chamberlain v. Chamberlain*, 62 Atl. 680. Most states by statute prescribe the formalities which are required to constitute a valid marriage in their respective territories. In construing these statutes the courts consider that marriage is a right which existed before statute and that the relation was encouraged at common law. So where statutes give requirements unless the statutes also expressly deny validity to marriage not in conformity thereto, such a statute will be construed as directory and not mandatory. *Maryland v. Baldwin*, 112 U. S. 490. *Heyman v. Heyman*, 218 Ill. 636. *Bishop on Mar. & Div.* Sec. 283. Speaking of statutes, the court, in *Meister v. Moore*, 96 U. S. 76, says: "In many states, enactments exist very similar to the Michigan statute, but their object has manifestly been not to declare what shall be requisite to the validity of the marriage but to provide a legitimate mode of solemnizing it." The state alone has the right to regulate marriage within its boundaries.

Travers v. Reinhardt presents a novel situation made possible by the diversity of marriage requirements in the different states. The lack of uniformity in our marriage laws has for a long time been a source of confusion and continues a problem for legislation yet unsolved.